

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI
(St. Louis)**

In Re:)	
)	
Ken Briick)	
)	Case Number 23-44523
Debtor)	
)	Chapter 13
)	
Lakeview Loan Servicing, LLC)	Motion Waives 30 Day Hearing
)	Hearing Date: July 8, 2024
)	Hearing Time: 10:00 a.m.
)	Objection Deadline: July 1, 2024
Movant/Creditor.)	

**NOTICE OF HEARING WTH OBJECTION DEADLINE AND
MOTION FOR RELIEF FROM AUTOMATIC STAY AND CO-DEBTOR STAY**

WARNING: THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY.

YOU MUST FILE AND SERVE YOUR RESPONSE BY JULY 1, 2024 WHICH IS 7 DAYS PRIOR TO THE HEARING LISTED ABOVE. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. THE DATE IS SET OUT ABOVE. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING. REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEYS.

The undersigned will move before the Honorable Judge Kathy A Surratt-States in the 7 North Courtroom of the United States Bankruptcy Court for the Eastern District of Missouri, 111 South 10th Street, 7th Floor, St. Louis, MO 63102, at 10:00 a.m. July 8, 2024, or as soon as thereafter as counsel may be heard seeking an Order:

COMES NOW, Lakeview Loan Servicing, LLC (“Movant”), by and through its attorney David Noyce, and for its Motion for Relief from Automatic Stay and Co-Debtor Stay and states as follows:

1. Debtor filed a voluntary petition for Chapter 13 bankruptcy protection on December 19, 2023.

2. On or about June 3, 2022, Kenneth Briick executed and delivered to Finance of America Mortgage LLC a promissory note (the “Note”) in the original principal amount of \$143,846.00. A true and correct copy of the Note is attached hereto as Exhibit “A” and incorporated herein by this reference.

3. The Note is secured by a properly recorded Deed of Trust executed on June 3, 2022. The Deed of Trust was executed and delivered by Kenneth Briick and Sheila Briick (the “Co-Debtor”) to Mortgage Electronic Registration Systems, Inc. (“MERS”), as beneficiary, as nominee for Finance of America Mortgage LLC, its successors and assigns securing the following real property:

Lot 7 of James T. Murphy’s Addition to the Town (now City) of New Haven, as per plat of record in Plat Book B page 22 in the Office of the Recorder of Deeds, Franklin County, Missouri.

The above-described property is also known as 212 Bates St, New Haven, MO 63068 (“Property”). A true and correct copy of the Deed of Trust is attached hereto as Exhibit “B” and incorporated herein by this reference.

4. The Movant is the current holder of the loan as all rights under the Deed of Trust have been assigned to the Movant. A true and correct copy of the Assignment is attached hereto as Exhibit “C” and incorporated herein by this reference.

5. The Note executed by the Debtor is made payable to the Movant or it has been duly indorsed payable to the Movant and the Movant is in possession of the same.

6. The Movant seeks to enforce the rights as allowed by the Note and Deed of Trust.

7. Debtor and Co-Debtor failed to make the required payment as outlined in the Note. As of May 1, 2024, the principal balance of the Note is \$142,299.89 with interest in the amount of \$7,900.62, in addition to late charges, insufficient funds and other amounts due and owing under the note. As of May 1, 2024, the total debt owed is \$156,187.25.

8. The Debtor and Co-Debtor failed to make post-petition monthly payments due under the Note and the loan is currently due for the January 1, 2024 post-petition payment. The following amounts are currently due and owing:

5 payments at \$1,251.69	\$6,258.45
(1/1/2024 to 5/1/2024)	
<u>Less Suspense</u>	<u>(\$0.00)</u>
Total Amount Due	\$6,258.45

9. A post-petition payment history is attached hereto as Exhibit “D”.

10. In addition to other amounts due to the Movant per this Motion, in connection with filing this Motion for Relief the Movant has also incurred legal fees in the amount of \$700.00 along with \$199.00 in costs. Movant reserves all rights to seek an allowance of such fees and costs in accordance with applicable state or Federal law and the loan documents.

11. Cause exists for the granting of relief from the automatic stay and Co-Debtor stay as Debtor and Co-Debtor have not offered Movant adequate protection of its interest in the Property pursuant to 11 U.S.C. §362(d)(1).

12. Movant asserts that Debtor and Co-Debtor’s failure to make regular payments as required under the Note and Deed of Trust results in a lack of adequate protection of Movant’s security interest and, therefore, a continuation of the automatic stay places the Movant’s collateral in jeopardy.

13. There is no equity in the Property and therefore it is not necessary for an effective reorganization.

14. Movant requests permission from the Court to communicate with the Debtor and Debtors' counsel as allowable under non-bankruptcy law in order to discuss potential loss mitigation alternatives to foreclosure.

15. Movant hereby consents to the continuation of the automatic stay until a hearing is held on the merits of this motion and hereby waives its right to a hearing within thirty (30) days of the date of this motion as provided by Section 362(e) of the Bankruptcy Code.

WHEREFORE, for the foregoing reasons, Movant respectfully requests that this Court enter an Order granting relief from the automatic stay and Co-Debtor stay which is effective despite any conversion of the bankruptcy case to a case under any other chapter of the United States Bankruptcy Code and finding that the fourteen (14) day stay period pursuant to Rule 4001(a)(3) shall be waived, authorizing Movant and its successors and assigns to immediately exercise any and all rights provided under non-bankruptcy law and as set forth in the Note and Mortgage granting it an interest in said property, and for such other and further relief as is just and appropriate under the circumstances.

Dated this 23rd day of May, 2024.

Respectfully Submitted,

MARINOSCI LAW GROUP, P.C.

/s/David V. Noyce

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ATTORNEY FOR MOVANT

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)	Motion Waives 30 Day Hearing
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EXHIBIT SUMMARY

Pursuant to the Local Rules of Bankruptcy Procedure, the following exhibits are referenced in support of the Motion for Relief from Stay filed by Movant. Copies of these exhibits will be provided as required by Local Rules:

- A. Note
- B. Deed of Trust
- C. Assignment
- D. Post-Petition Payment History

Date: May 23, 2024

Respectfully submitted,

/s/ David V. Noyce
David V. Noyce #56116MO
Attorney for Movant/Creditor

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the Notice of Hearing with Objection Deadline and Motion for Relief was filed electronically on May 23, 2024, with the United States Bankruptcy Court, and has been served electronically by the Court's CM/ECF System to the following parties

Timothy Patrick Powderly
The Powderly Law Firm, L.L.C.
11965 St. Charles Rock Rd.
Suite 202
St. Louis, MO 63044

Diana S. Daugherty
Chapter 13 Trustee
P. O. Box 430908
St. Louis, MO 63143

U.S. Trustee
Office of the US Trustee
111 S. Tenth St., Ste 6.353
St. Louis, MO 63102

I certify that a true and correct copy of the Notice of Hearing with Objection Deadline and Motion for Relief was deposited in the United States mail postage prepaid on May 23, 2024 to the following non-CM/ECF parties:

Ken Briick
212 Bates Street
New Haven, MO 63068

Sheila Briick
212 Bates Street
New Haven, MO 63068

/s/ David V. Noyce
David V. Noyce #56116MO